

ORDINANCE NO. 2010-01

AN ORDINANCE PROVIDING FOR CONNECTION TO WASTEWATER FACILITIES OF THE EDGEWOOD SEWER DISTRICT; PROVIDING FOR PROCEDURES AND POLICIES FOR OBTAINING WASTEWATER SERVICE FROM THE TOWN OF EDGEWOOD SEWER DISTRICT; PROVIDING THAT WITH CERTAIN EXCEPTION THERE SHALL BE NO SUBDIVIDING OF REAL PROPERTY OR THE CONSTRUCTION OF CERTAIN BUILDINGS WITHIN INCORPORATED EDGEWOOD WITHOUT A PRIOR REQUEST TO THE EDGEWOOD SEWER DISTRICT FOR SEWER SERVICE; PROVIDING FOR WASTEWATER FACILITIES; PROVIDING FOR THE CONSTRUCTION OF WASTEWATER FACILITIES PROVIDING FOR THE CONSTRUCTION OF WASTEWATER EXTENSIONS; PROVIDING FOR SERVICE COMMITMENTS; PROVIDING FOR CONNECTION FEE PAYMENT, EXTENDITURES AND REFUNDS; PROVIDING FOR DESIGN AND CONSTRUCTION STANDARDS; PROVIDING FOR PENALTY FOR VIOLATION.

WHEREAS, pursuant to section , NMSA, the Governing Body of the Town of Edgewood created and established, as a public body corporate and politic, a district known as the "Edgewood Sewer District" (DISTRICT);

WHEREAS, the governing body of the Town of Edgewood (Council) is the ex officio governing Council of the DISTRICT;

WHEREAS, the Town of Edgewood Utilities Department (DEPARTMENT) is responsible to the COUNCIL for the operation and maintenance of the DISTRICT's wastewater systems and the administration of the DISTRICT's enterprise fund;

NOW, THEREFORE, BE IT ORDAINED by the Town of Edgewood Council, Edgewood New Mexico, as follows:

1. SECTION 1- GENERAL

1.1. Short Title-This Ordinance shall be known and may be cited as "An Ordinance providing for connection to wastewater facilities of the Town of Edgewood Sewer District".

1.2. Purpose-The purpose of the Ordinance is to establish policies for obtaining wastewater service from the Town of Edgewood Sewer District, payment of connection fees, and commitments for service.

1.3. Administration-This ordinance shall be administered by the Community Planning & Development Department.

1.4. Jurisdiction-This Ordinance shall apply to all incorporated areas of the Town of Edgewood Sewer District.

1.5. Availability of Service

1.5.1. Service availability shall be determined by the following:

1.5.1.1. Upon receipt of a request for service, the Department shall estimate the cost of the necessary line extension and determine if uncommitted plant capacity exists.

1.5.1.2. If the estimated extension cost exceeds an amount equal to 25 percent of the applicable connection fee for the proposed development, or if insufficient uncommitted plant capacity exists, service shall be deemed not available. The District, at its option, may, however, approve the extension upon terms set forth by the District in a sewer service agreement.

1.5.1.3. If service is determined not to be available, due to the cost of line extension as above set forth, then the developer/applicant may agree to fund the total cost of the necessary line extension and also pay all applicable connection fees.

1.5.1.4. If service is determined not to be available, due to the lack of uncommitted plant capacity, then the developer/applicant may agree to fund the total cost of expanding plant capacity and also pay all applicable connection fees.

1.5.1.5. The determination of the availability of wastewater services may, at the option of the District, be determined together or separately.

Section 2-REQUESTS FOR SERVICE

2.1 General

2.1.1 All requests (applications) for sewer service shall be made to the Department. The Department will review the initial request to determine the apparent feasibility and requirements for providing service.

2.1.2. All requests (applications) for service in the District shall be submitted in writing, or verbally, to the:

Town of Edgewood Community Planning & Development Department
PO Box 3610
Edgewood, NM 87015-3610
Telephone: (505) 286-4518
FAX: (505) 286-4519
Email: planning@edgewood-nm.gov

2.1.3. All requests for single or multi-family developments, commercial and/or other establishments involving wastewater flows in excess of 2,000 gallons per day shall be submitted, in writing, by a State of New Mexico Registered Professional Engineer, unless otherwise approved by the Department.

Section 3-Review of requests for service

3.1 Requests for Service-The request for service will be reviewed and evaluated as to the feasibility of providing service, with a written response (Preliminary Review) issued to the applicant within two weeks of receipt of the request, indicating the availability or unavailability of service, or requesting additional information. (The response may be verbal, if service is immediately available and an extension of service lines or facilities is not required for service.)

3.2 Preliminary Review-Upon receipt of the Preliminary review, or in the event that no written response is issued within two weeks of the request for service, if the applicant wishes to move forward with obtaining sewer service from the District, the applicant shall submit a written request for a Final Review.

3.3 Final Review-Within two weeks of receipt of a request for Final Review and the furnishing of all additional information requested, the Department shall advise the Applicant in writing of the availability of service and, if service is available, the connection fee, point of connection, required extensions, and any other pertinent requirements.

Section 4-Connection Fees

4.1 Definitions of Wastewater Facilities, Equivalent Residential Unit Level of Service, and Connection Fees

4.2.1 Wastewater Equivalent Residential Unit (ERU)- The ERU level of Service (LOS) for wastewater usage for residential, non-residential, commercial and industrial units shall be established by resolution of the Council.

4.2.2 Wastewater Connection Fee-As established by resolution of the Council, the connection fee per ERU for residential, non-residential, commercial and/or industrial shall consist of three (3) components:

4.2.2.1 Wastewater treatment facilities;

4.2.2.2 Wastewater Transmission facilities; and

4.2.2.4 Wastewater disposal facilities.

- 4.2.3. Wastewater Onsite Facilities-Gravity lines, force mains and pump stations within the legal boundary description of the property that are necessary to service the development, excluding oversized requested by the District. The developer shall be responsible for funding and constructing all onsite facilities, excluding funding for oversized requested by the District.

4.3 Connection Fees

- 4.3.1 Connection fees shall be uniform, and based upon current average costs of providing wastewater treatment plant and disposal facilities. Connection fees shall be based upon the anticipated average daily wastewater flow contribution for the type of development or establishment requesting service "as per 20.7.3 NMAC.". Connection fees shall be determined in accordance with Section ____ (wastewater equivalent residential unit) (ERUs for non-residential, commercial, or industrial use shall be determined by dividing the average water flow required by the Level of Service (LOS) in gallons per day (gpd) as established for a single ERU and the average wastewater flow required, or generated, by the LOS in gpd as established for a single ERU.)
- 4.3.2 Connection for wastewater services shall be established by, and in the future may be amended by, resolution of the Town of Edgewood Council as adopted at an advertised public hearing, Notice of such public hearing setting forth the schedule or schedules of connection fees shall be given by one publication in a newspaper published in the town at least fifteen (15) days, including weekends and holidays, before the date fixed in said notice for the hearing.
- 4.3.3 When existing structures connected to the system will require an increased sewage capacity, additional connection fees shall be charged based upon the anticipated increase in flow resulting from the new demand. When existing structures connected to the system use a greater sewage capacity than they were allocated, additional connection fees shall be charged based on the average daily sewage treated for the most recent twelve (12) month period. All additional connection fees shall be paid at the rates then in effect at time of payment.
- 4.3.4 The Council, on behalf of the District, has established sewer hook-up charges under separate ordinance and resolution. Sewer hook-up charges are not included in the connection fee described above and shall be paid directly to the Department prior to connection.
- 4.3.5 In the event any request or service cannot be calculated by the Department and engineering work is required; the Applicant shall pay the cost of such engineering.

4.4 Calculation of Connection Fees

- 4.4.1 For wastewater flows, which do not require pretreatment prior to discharge into the wastewater system, wastewater connection fees are calculated as follows:
- 4.4.1.1 For residential developments, the planned number of single family residential units is multiplied by the current total wastewater connection fee per ERU to determine the total connection fees due for the development.
- 4.4.1.2 Non-residential, commercial, and industrial wastewater connection fees are calculated by dividing the required or anticipated average daily wastewater flow of the non-residential, commercial or industrial water user by the level of service in gallons as established by ordinance per wastewater ERU to determine the total number of ERUs for the non-residential, commercial or industrial wastewater user. The calculated ERU value for the wastewater user is then multiplied by the current wastewater connection fee per ERU to determine the total wastewater connection fee due for the project.

- 4.4.1.3. For establishments where wastewater flows exceed normal domestic strength, the ERUs shall be adjusted to compensate for the cost of reducing such strength to a normal domestic strength, or the applicant shall be required to provide pre-treatment to reduce the wastewater flow to normal domestic strength prior to entry of the wastewater flows into the Town's wastewater system.

Section 5-Point of Connection

- 5.1 General-The District reserves the right to establish the point of connection for all connections to District systems.
- 5.2 Extension of Sewer Service to New Developments
 - 5.2.1 The Department shall determine which entity (the Applicant or the Department) shall design and construct the line extension to connect with the district system.
 - 5.2.2 By Applicant: Upon request by the applicant, and approval by the Department, the Applicant may engage his engineer to design and construct the required line extension. Design and construction shall be in accordance with the appropriate policy, standards and specifications of the Department and the District.
 - 5.2.3 By Department: Upon request by the Applicant, the Department may cause to be constructed the necessary wastewater line extensions to the project. Upon receipt of said request, the Department will advise the Applicant of the estimated construction cost (to include engineering, legal and administrative costs) and the estimated time of completion. Payment of the estimated cost to the Department will be required prior to initiating construction. Adjustment to the Department, or the Applicant, will be made based upon final construction costs.
 - 5.2.4 Basis of Extension Size- Sanitary force main extensions shall be sized based up maintaining a velocity of 2.5 FPS and a maximum velocity of 7.5 FPS for design flow conditions. Gravity sanitary sewer extensions shall be a minimum of 8-inch diameter. For purposes of this requirement, the above criteria shall only apply to through streets, or other cases where future additional development is possible.
- 5.3 Oversizing-Where the District requires Oversizing for the purpose of serving future additional development, the Applicant shall be so advised. All construction costs associated with Oversizing shall be borne by the District. The cost of over-sizing will be credited against connection fees. All costs for Oversizing in excess of connection fees shall be paid to the applicant by the District upon completion of the project, or upon expenditure per prior agreement. Costs of Oversizing shall be based upon the incremental installed cost of the oversizing, based on actual bid quantities or costs of the contractor.
- 5.4 Extension of Sewer Service to Existing Developments Adjacent to District Facilities
 - 5.4.1 Where service is requested by individual property owners, either residential or commercial, in areas adjacent to existing district facilities having adequate capacity, involving potential future customers in addition to those requesting service, Department will determine the feasibility of constructing the necessary line extensions with payment for connection fees and cost of extension to be by lump sum, contractual installments payments, or special assessment, in accordance with applicable provisions of law.
 - 5.4.2 The Department will utilize its discretion as to whether or not the work will be done by Department staff, or contracted out, whichever method is best for the property owners.
 - 5.4.3 Allocation of line extension costs shall be on a proportionate basis, in accordance with the anticipated flow associated with each benefitted property based on an equivalent residential unit, or front footage.

- 5.4.4 If the proportionate ERU cost for the extension exceeds the corresponding connection fee component, the corresponding connection fee component will be replaced by the amount of the proportionate ERU cost of the extension.

For example: If the proportionate cost per ERU for a wastewater extension is \$500, and the corresponding ERU component of the connection fee is \$210 (based on a \$525 sewer connection fee), the connection fee shall be reduced to \$315 (\$525 less \$210) and the \$500 line extension cost added to the connection fee, for a total connection fee of \$815. Hook-up fee and any applicable deposit shall be in addition to the connection fee.

- 5.4.5 If the proportionate ERU cost for the extension is less than or equal to the corresponding connection fee component, the existing connection fee will be assessed per ERU for each property connected to the extended facilities.

- 5.4.6 If the proportionate cost per ERU exceeds the corresponding connection fee component, and there are up to 100 potential connections to the extended facilities, the Department may enter into a Sewer Service Contracts with individual customers for payment of the line extension cost over and above the connection fee, hook-up fee and applicable deposit.

5.4.6.1 The customer will pay the hook-up fee and any applicable deposit prior to service connection, and at least 25 percent of the remaining connection fee less the proportionate extension cost.

5.4.6.2 The Department may provide an installment payment plan to customers for the balance due, payable in equal monthly installments, with interest not to exceed the interest rate authorized by New Mexico Statutes, amortized over a period not to exceed two (2) years, or 24 months.

5.4.6.3 Contract installment payment plans shall be available only at the time of the line extension, with connection to the system made at the time of construction. All entities connecting after the original construction period shall pay full fees prior to connection, including the additional line extension cost.

- 5.4.7 If the proportionate cost per ERU exceeds the corresponding connection fee component, and the potential connections to the extension facilities exceed 100 connections, the line extension costs shall be paid by special assessment wherein all benefited property owners are charged 100% of the cost of such extensions. All special assessments shall be approved by the Council at a properly advertised Public Hearing.

The Council, as the governing board of the District, will utilize its discretion as to whether or not the work will be done by Department staff, or contracted out, whichever method is best for the property owners.

5.4.7.1 The time period for repayment shall be based upon the amount of the assessment in accordance with Town Policy.

5.4.7.2 Connection fees, hook-up fees, and applicable deposits will be separate and in addition to the assessment. The appropriate components of the connection fee shall be replaced with the extension costs collected by assessment and the remaining components of the connection fee will be due prior to service connection along with the hook-up fee and applicable deposit. The Council may approve inclusion of the connection and hook-up fees with the assessment. Applicable deposits will be due upon connection.

5.4.7.3 Any assessments may be paid at the Municipal offices within 30 days after the confirmation thereof, without interest. Thereafter all assessments shall be payable in equal annual installments, with interest not to exceed the interest rate authorized by New Mexico Statutes, from the expiration of said 30 days in each of the succeeding number of years for which the assessment will be payable as determined by Resolution at the time or times in each year at which the general property taxes are payable; provided, however, that the District may by Resolution fix a shorter period of payment for any assessment and/or adjust the interest rate not to exceed what is authorized by New Mexico Statutes; provided further that any assessment may be paid at any time before due, together with interest accrued thereon to the date of payment.

5.4.8 Connection fees associated with facility extensions will be required as stipulated in this Ordinance. Connection fee payment shall be made prior to connecting to the facilities, or, if requested by the Applicant and approved by the Council may be included in the contractual installment plan or the special assessment as outlined in Subsection 6.4.6 and 6.4.7.

SECTION 6 SERVICE COMMITMENTS

- 6.1 Acceptance of final Review-Within 90 days of receipt of the final review setting forth the connection fees, point of connection, and extension requirements, the Applicant shall advise the town of the applicant's acceptance of the town's proposal.
- 6.2 Development Schedule-Along with the acceptance of the proposal, the Applicant shall provide to the Department an estimated schedule of development with said schedule showing the estimated number of units to be constructed each year until build-out.
- 6.3 Formal Commitment-Within two weeks after receipt of the Applicant's Notification of Acceptance and Development Schedule, the Department, acting on behalf of the Council, shall issue a formal commitment letter. The commitment letter shall bind the Department to provide services to the Applicant subject to receipt of connection fee payment and appropriate regulatory approvals. Commitments are non-transferable from one property to another; however, commitments are transferable to a new owner of the same property.
- 6.4 Expiration of Commitment- Unless otherwise agreed, commitments shall expire five years after issuance of the formal commitment for projects, or project phases involving lump sum payments. Commitments shall expire at the end of the last year indicated on the Applicant's Development Schedule for projects involving incremental payment of connection fees. Commitments will be honored for any initial building permit issued by the Community Development Department.
 - 6.4.1 Time Extensions to Commitment- Time extensions to commitments may be granted for periods not to exceed two years, provided capacity within the water and/or sewer system remains available, and provided that a request is submitted in writing prior to 30 days before the expiration date of the commitment.
 - 6.4.2 Service agreements or commitment contracts entered into prior to the effective date of this Ordinance, by which the town agreed to accept advanced connection fees and reserve capacity at its wastewater treatment facility at a specified level of service and by which the Developer agreed to connect a certain number of units to the town facilities in accordance with an agreed upon schedule, may be granted two year time extensions in accordance with section 6.5.1.

SECTION 7- CONNECTION FEE PAYMENT, REVISIONS, EXPENDITURES AND REFUNDS

7.1 Connection Fee Payment Schedule-Payment of connection fees shall be made upon commitment by the Town for capacity, upon approval of a sewer service agreement on concurrent with the issuance of building or remodeling permits by the Town of Edgewood Development Department. Connection fees shall be paid either as a lump sum or in project phases as described below, or on an installment basis with monthly, quarterly, semi-annual or annual payments. For all connection fees paid on an installment basis, the installment period shall not exceed five (5) years.

7.1.1 Lump Sum Payment- the connection fee payment amount shall be for the amount of sewer capacity committed to the project. Connection fees for all projects involving single buildings shall be paid fully upon receipt of the formal commitment. Payment of connection fees for any project may be made as a lump sum at the option of the Applicant and shall be paid upon receipt of formal commitment. If an immediate expenditure of funds is not required by the county to provide service, an irrevocable letter of credit from a New Mexico bank or other security acceptable to the town Attorney equal to 100 percent of the total connection fee may be acceptable, until a time specified by the Town.

7.2.1 Project Phase Payments- Connection fees for Project Phases shall be paid upon commitment for service by the District for the additional project phases. If an immediate expenditure of funds is not required by the Town to provide service, an irrevocable letter of credit from a New Mexico bank or other security acceptable to the town Attorney equal to 100 percent of the total connection fee may be acceptable, until a time specified by the Town.

7.2.3 Installment Payments- In cases of financial need, the Department may offer an installment payment plan to persons with a single-family home that must be connected to the county's systems as a result of sewer line extensions that require connection of existing properties, and/or by order of the New Mexico Environmental Department. The installment payments will be assessed and collected in the manner described in Section 5.4.6, above.

7.2 Connection Fee Revisions- Any changes in regard to connection fees listed herein shall be by resolution of the Town of Edgewood council at a property advertised Council meeting in accordance with Paragraph 4.3.2 above. Revised connection fees shall apply to commitments then in effect as follows:

7.2.1 Commitments involving connection fees full paid under the Lump Sum Payment method shall not be effected by the revised fee schedule until expiration of the commitment. If a time extension is granted up expiration of the commitment, additional applicable fees shall apply for all phases of the project for which construction plans have not been approved. The Applicant shall have the option of either paying the difference in connection fees for each project phase made after expiration of the original commitment or of having the remaining unused connection fee balance credited toward a revised number of prepaid connections.

7.2.2 Commitments involving connection fees paid under the Incremental Payment method shall be revised in the following manner:

7.2.2.1 Down payments shall be credited in the same manner as Lump Sum Payments described in Subsection 7.2.1 of this Ordinance.

7.2.2.2 Upon full utilization of the Lump Sum Payment, connection fees for remaining units shall be based upon the connection fees in effect at the time application is made for a Building Permit.

7.3 Franchise Connection Fee Extended Payment Plan-When Franchise holders, or private entities, serving apartments, mobile home parks or other commercial establishments under single ownership and/or control are required by a governmental agency to connect to the District utility system, the connection fees required by Section 4 may be paid as a lump sum in accordance with Section 7, Subsection 7.1.1 or, if approved by the Council, on an extended payment plan. The extended payment plan shall require a down payment equal to twenty (20) percent of the connection fee. The remainder shall be payable in equal monthly installments at an annual interest rate not to exceed what is authorized by New Mexico Statutes over a period of time not to exceed five (5) years. Monthly installments may be billed and paid separately or along with the monthly sewer service bills from the Town.

7.4 Connection Fee Expenditures

7.4.1 Connection fees will be deposited in a separate fund and accounted for by water or sewer revenue and expense.

7.4.2 All interest earned by the investments of monies in this fund will be deposited into this fund prorated to water or sewer per account balance.

7.4.3 Connection fees may be expended District-wide.

7.5 Connection Fee Refunds

7.5.1 Request for refunds will be considered if submitted in writing prior to 30 days before expiration of commitment.

7.5.2 Upon receipt of a written request for Connection Fee Refund and termination of service commitment, the clerk will determine and advise the Applicant within 30 days as to the amount of refund.

7.5.3 Any funds expended by the Town related in any way to the service request in question, including but not limited to land, engineering and construction, shall be deducted from the prepaid connection fee.

PASSED, ADOPTED AND APPROVED THIS 3rd DAY OF MARCH 2010.